

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY)	MDL NO. 1456
AVERAGE WHOLESALE PRICE)	
LITIGATION)	CIVIL ACTION: 01-CV-12257-PBS
)	
)	Judge Patti B. Saris
THIS DOCUMENT RELATES TO)	
<i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i>)	Magistrate Judge Marianne B. Bowler
<i>Inc. v. Abbott Laboratories, Inc.,</i>)	
No. 06-CV-11337-PBS; <i>U.S. ex rel. Ven-A-</i>)	ORAL ARGUMENT REQUESTED
<i>Care of the Florida Keys, Inc. v. Dey, Inc. et</i>		
<i>al.</i> , No. 05-11084-PBS		

**ABBOTT LABORATORIES INC. AND DEY, INC., DEY, L.P.,
AND DEY, L.P., INC.'S UNOPPOSED MOTION FOR LEAVE TO FILE
A REPLY MEMORANDUM IN SUPPORT OF DEFENDANTS'
MOTIONS FOR A FINDING OF SPOILIATION AND FOR SANCTIONS**

Defendants Abbott Laboratories Inc. and Dey, Inc., Dey, L.P., and Dey, L.P., Inc. respectfully request permission to file the joint reply memorandum attached hereto in support of Abbott Laboratories Inc.'s Motion for a Finding of Spoliation and for Sanctions (Dkt. No. 6096) and Dey, Inc., Dey, L.P., and Dey, L.P., Inc.'s Motion for a Finding of Spoliation and for Sanctions (Dkt. No. 6109). The United States does not oppose Defendants' request.

Defendants believe the reply memorandum—which responds to the United States' Memorandum in Opposition to Defendants' Motions for a Finding of Spoliation and for Sanctions (Dkt. No. 6270)—will assist in defining the issues requiring the Court's resolution.

As indicated in Defendants' opening memoranda, Defendants request that the Court hold a separate hearing, including an evidentiary hearing should the Court deem it appropriate, to address spoliation issues raised in Defendants' motions. Defendants believe it would be prudent to schedule that hearing before the Court considers the parties' summary judgment motions.

Dated: August 12, 2009

Respectfully submitted,

/s/ R. Christopher Cook

James R. Daly
Jason G. Winchester
Brian J. Murray
JONES DAY
77 West Wacker Drive, Suite 3500
Chicago, Illinois 60601
Telephone: (312) 782-3939
Facsimile: (312) 782-8585

R. Christopher Cook
David S. Torborg
JONES DAY
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
Telephone: (202) 879-3939
Facsimile: (202) 626-1700

Counsel for Defendant Abbott Laboratories Inc.

/s/ Sarah L. Reid

Paul F. Doyle (BBO # 133460)
Sarah L. Reid
Neil Merkl
KELLEY DRYE & WARREN LLP
101 Park Avenue
New York, NY 10178
Telephone: (212) 808-7800
Facsimile: (212) 808-7897

*Counsel for Defendants Dey, Inc., Dey L.P., Inc.
and Dey, L.P.*

CERTIFICATE OF SERVICE

I, David S. Torborg, an attorney, hereby certify that I caused a true and correct copy of the foregoing to be served on all counsel of record electronically by causing same to be posted via LexisNexis, this 12th day of August, 2009.

/s/ David S. Torborg
David S. Torborg